SHERIFF'S DEPARTMENT

OFFICE CORRESPONDENCE

Date: August 4, 1995

FROM:

WILLIAM T. STONICH, COMMANDER

TO:

ARTHUR E. HERRERA, CAPTAIN

CENTURY STATION

PROFESSIONAL STANDARDS
AND TRAINING DIVISION

SUBJECT:

FORCE REVIEW COMMITTEE FINDINGS AND RECOMMENDATIONS

-- HIT SHOOTING, NOVEMBER 5, 1994, PSTD # 008427

The purpose of this memo is to notify you of the review committee's findings and recommendations concerning the use of force which occurred on November 5, 1994.

The committee met on August 3, 1995, and consisted of myself and Commanders Kramer (FOR III) and Gomez (FOR II). We determined that the use of force by Deputies Joseph Barbosa, # Bruce Chase, # Ernest Chavez, # Chase Duerr, # Howard Fuchs, # Michael Hanneman, # Chris Joseph Miskevics, # Marks, # Michael Modica, # Carlos Michael Patterson, # George Sakabu, # Parga. # Daniel White, # was within policy. Please advise the deputies of this finding.

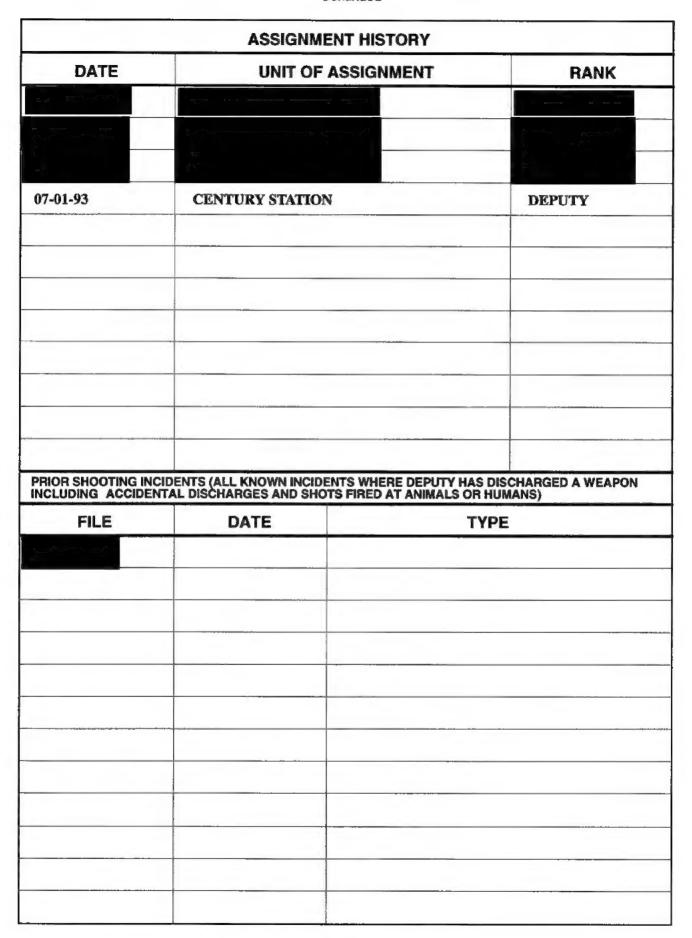
The review committee recommends that you conduct a debriefing with the deputies concerning the tactics employed in this volatile situation, specifically as they relate to shooting backgrounds and fire contagion. The committee further requests that you commend the deputies for their actions in this most difficult and dangerous situation and recognize that, if not for their actions, the outcome could have been far more tragic.

Accompanying this memo is the original PSTD Response Team package which contains the IAB and Training Bureau reports. Please evaluate the included material and complete and sign the enclosed form documenting your recommendations and actions. The package should be forwarded to me through your division chief within 30 days.

WTS:jph

LOS ANGUES COUNTY - SHERIFF'S DARTMENT

SHOOT	TER										
EMPLOY	EE'S NAME										
BARB	OSA, Joseph										
RANK		EMI	PLOYEE NO.		UNIT AND DIV	ISION / RE	GION (OF ASSIGNME	NT		-
Deput	y				Century S	Station /	Field	Operations	Regio	nΠ	
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YES		NO		NO			Į	YES			
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RANGE	QUALIFICATION (LAST DATE)	NO. OF 8	HOUNDS	FIRED BY DEPI	UTY		F HITS INKNOWN			
DEPUT	Y'S TOXICOLO	GY									
	HE INFLUENCE		TEST FO	R CAUS	E ORDERED		ORDE	RED BY			
N/A			NO				N	A			
	IG INFORMATIO										
LASER V	/ILLAGE TRAININ	G (LAST DA	TE)		PRACTICAL PO	DLICE COL	IRSE (L	.AST DATE)			



LOS ANGE IS COUNTY - SHERIFF'S DE ARTMENT

SHOOT	TER											-
EMPLOY	EE'S NAME					10						
CHAS	SE, Bruce											
RANK			EMPLOY	EE NO.		UNIT AND D	IVISION	/ REGION	OF ASSIGNME	NT	_	
Deput	у								Operation		n II	
SEX	RACE		1	HEIGH	НТ	WEIGHT	DAT	E OF BIRT	н	AGE		
M	White	+		5'10	p»	165				6	<u> </u>	
DUTY ST	TATUS								HIRE DATE			
On du	ty								09-07-8	8		
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INJURED)						DE	CEASED	CORONER	SCASE	NO.	
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WEAPO	ON USED		•				-					
TYPE BERE	TTA 9MM,	MODE	L 92F			AUTHORIZED YES						
AMMUNI'	TION TYPE				-	AUTHORIZED						
WINC	HESTER 9N	MM, L	UGER			YES						
RANGE	QUALIFICATION	(LAST D		NO. OF R	OUND	S FIRED BY DE	PUTY		OF HITS UNKNOWN	ī		
DEPUT	Y'S TOXICOL	OGY	1									
	HE INFLUENCE		1	TEST FO	R CAUS	SE ORDERED		ORDI	ERED BY			
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TRAININ	IG INFORMAT	ION										
	/ILLAGE TRAIN		T DATE)			PRACTICAL	POLICE	COURSE (LAST DATE)			
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FILE	DATE		TPE

LOS ANGUES COUNTY - SHERIFF'S DEARTMENT

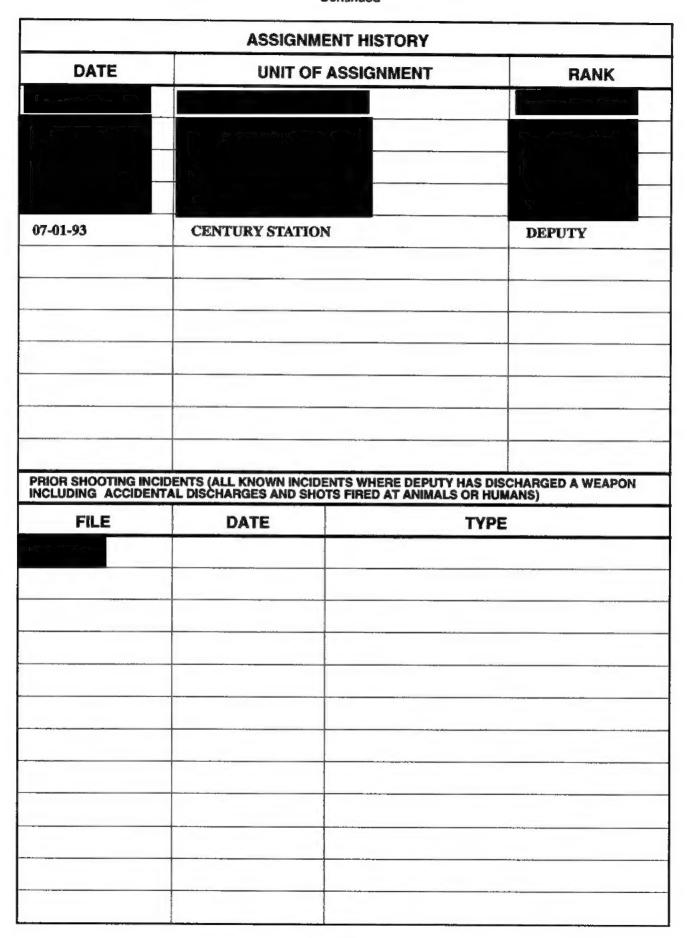
EMPLOY												
	EE'S NAME											_
CHAV	EZ, Ernest											
RANK		EMPLO	DYEE NO.	_	UNIT AND D	MISION / D	EGION (OF ACCIONS	arthr			
Deput	CV		,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,					Operatio			~ IT	
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UNIFOR	M	RAID JACKET		PLAIN	CLOTHES			VEST				
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NJURED)					DECE	ASED	CORONE	R'S (CASE	NO.	
NO						N/A		N/A				
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WAS THE WHERE SUPER' WEAPO TYPE BERE' ITHAC	HE DEPUTY S CEN VISED BY: S ON USED TTA 9MM, I CA SHOTGE	SEQUESTERED TURY STATI SGT. JOHN M	PRIOR TO	AND :	NTERVIEW? SGT. DAVE AUTHORIZED YES		Y	ES (X)	_	-		1
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WAS THE WHERE SUPER WEAPO TYPE BERE ITHAC MMUNIT WINCE RANGE CO	HE DEPUTY S CEN VISED BY: S ON USED TTA 9MM, I CA SHOTGE TION TYPE HESTER 9	EQUESTERED TURY STATI SGT. JOHN M MODEL 92F UN MM, LUGER (LAST DATE)	PRIOR TO ON ICQUAY A NO. OF RO 15 9mm 4 Shot	AND	SGT. DAVE AUTHORIZED YES YES AUTHORIZED YES	FORM	NO. O	ES (X)		-		1
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FILE		On-duty shooting. Sho	YPE
FILE	DATE	Т	YPE
FILE	DATE	On-duty shooting. Sho	
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LOS ANGI ES COUNTY - SHERIFF'S DE ARTMENT

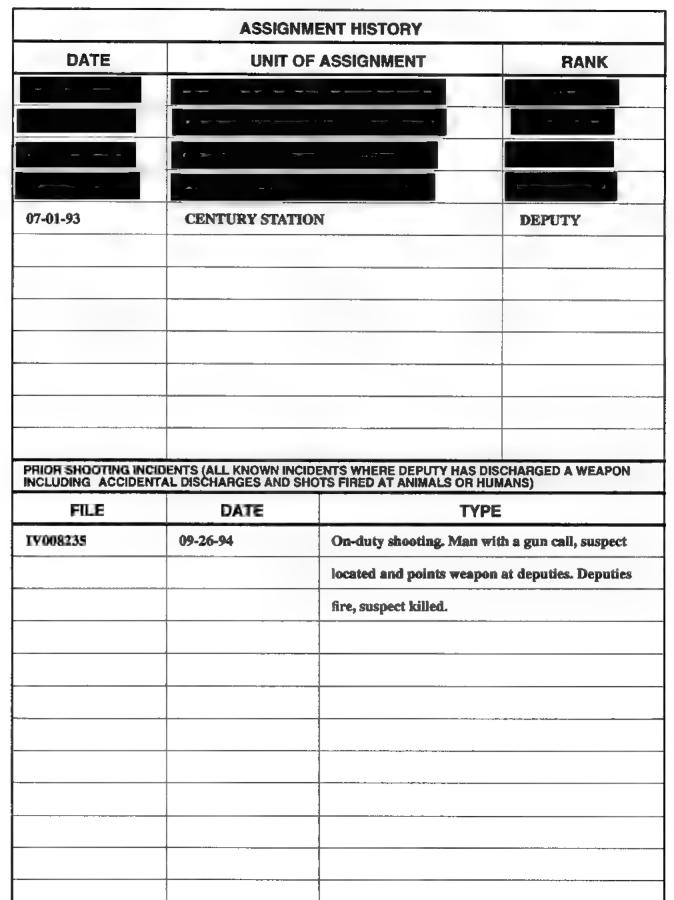
SHOOT	TER									
EMPLOY	EE'S NAME							-		
DUE	RR, Chase									
RANK		EMPLO	YEE NO.		UNIT AND DI	VISIO	N/REGION	OF ASSIGNME	NT	
Deput	ty				Century	Stat	tion / Field	Operations	Region II	
SEX	RACE		HEIG	HT	WEIGHT	Di	ATE OF BIRT	н	AGE	
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DUTY S								HIRE DATE		
On du	ity							05-15-8	8	
UNIFOR	IM	RAID JACKET		PLAIN	CLOTHES			VEST		
YES		NO		NO				YES		
INJURED	D					10	DECEASED	CORONER'S	S CASE NO.	
NO						1	N/A	N/A		
	PTION OF INJUR	IES								
NONE	<u>c</u>									
WAST	HE DEPUTY IM	IMEDIATELY R	EMOVED	FROM	THE SCENE	?	,	YES [X]	NO [1
WAST	HE DEPUTY SI	EQUESTERED	PRIOR TO	O THE	INTERVIEW?		,	res [X]	NO [1
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TYPE	011 0025				AUTHORIZED					
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4743414				- 1						
AMMUNI	ITION TYPE			$\overline{}$	AUTHORIZED					·
WINC	CHESTER 9N	M. LUGER			YES					
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RANGE	QUALIFICATION	(LAST DATE)	NO. OF	ROUND	S FIRED BY DE	PUTY	NO.	OF HITS		
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LOS ANG ES COUNTY - SHERIFF'S C 'ARTMENT

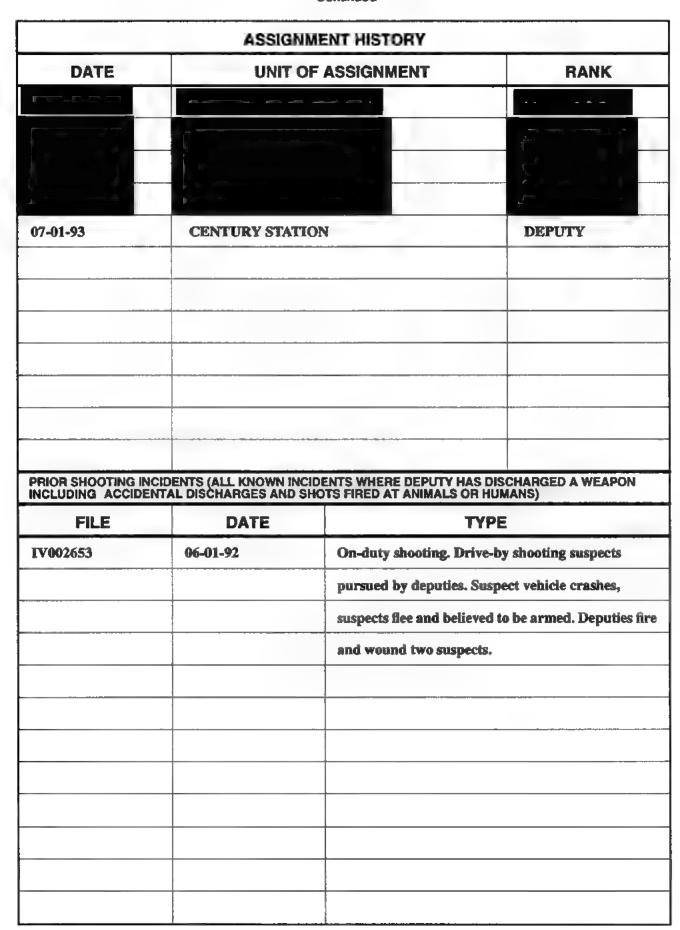
SHOOT	ER										
EMPLOY	EE'S NAME					. =					
FUCH	S, Howard										
RANK		EMPL	OYEE NO.		UNIT AND DIV	ISION / RE	GION C	F ASSIGNME	NT		
Deputy	,				Century	Station /	Field	Operations	Region	n II	
SEX	RACE		HEIG	HT	WEIGHT	DATE OF	BIRTH	1	AGE		
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DUTY ST	ATUS				1		1	HIRE DATE			
On du								11-30-8	R		
On da	·y							11-50-0			
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YES		NO		NO				YES			
INJURED						DECEA	SED	CORONER'S	S CASE N	10.	
NO						N/A		N/A			
DESCRIP	TION OF INJUR	IES									
NONE											
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WASTH	E DEPUTY SE	QUESTERE	PRIOR T	OTHE	INTERVIEW?		Y	ES [X]	NO	1]
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SUPER	VISED BY: S	GT. JOHN	MCOUAY	AND	SGT. DAVE	FORMA	NSKI	ι			
	N USED										
TYPE					AUTHORIZED						
BERE	TTA 9MM, N	MODEL 92E	7		YES						
	TON TYPE				AUTHORIZED						
WINC	HESTER 9M	IM, LUGEI	R		YES						
								CLOUD TOWN			
RANGE	WALIFICATION	(LAST DATE)		ROUND	S FIRED BY DE	PUTY		FHITS			
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	Y'S TOXICOLO										
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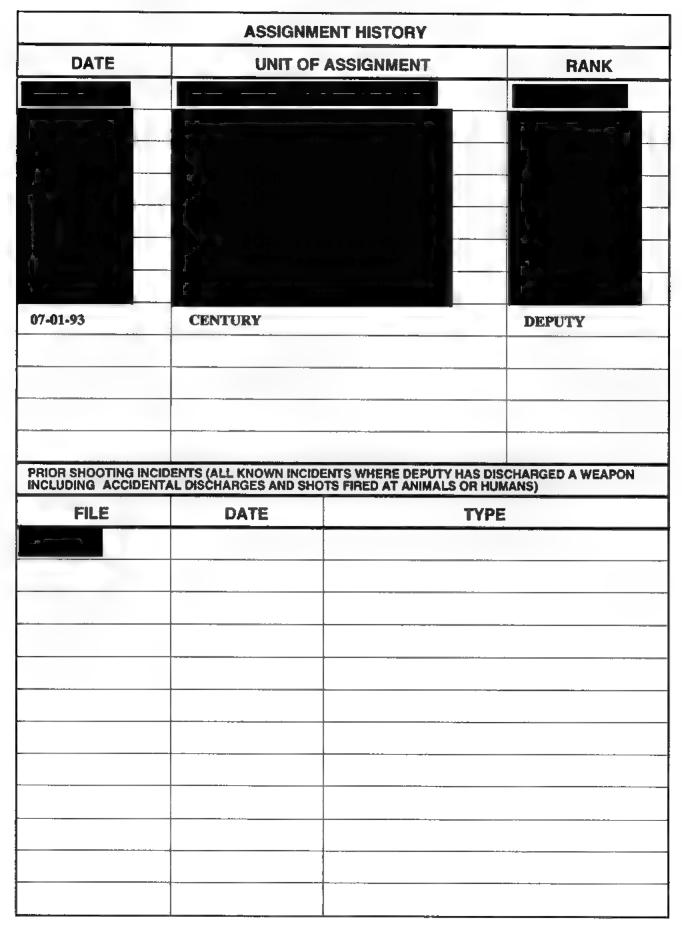
LOS ANGIES COUNTY - SHERIFF'S DEARTMENT

SHOOT					·						
	EE'S NAME		•								
HANN	EMAN, Mic	chael									
RANK		EMPL	OYEE NO.		UNIT AND DIV	/ISION / RI	EGION (OF ASSIGNME	NT		
Deputy	у	-	-					Operations		n II	
SEX	FACE		HEIG	нт	WEIGHT	DATE	F BIATI	H	AGE		
M	White		6'0	0"	170		(27h Y		T _{abel}		
DUTY ST	ATUS							HIRE DATE			
On du	ty							02-01-89	•		
UNIFORM	A	RAID JACKE	Г	PLAIN	CLOTHES			VEST			
YES		NO		NO				YES			
INJURED				<u> </u>		DECE	ASED	CORONER'S	CASE	NO.	
NO						N/A		N/A			
	TION OF INJUR	IES						[
NONE											
WAS TH	IE DEPUTY IN	IMEDIATELY I	REMOVED	FROM	THE SCENE?		Y	ES (X)	NO	1	1
WAS TH	IE DEPUTY SE	EQUESTERED	PRIOR TO	O THE I	INTERVIEW?		Y	ES [X]	NO]	1
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SUPER	VISED BY: S	GT. JOHN	MCQUAY	AND	SGT. DAVE	FORM!	NSKI	[
	N USED										_
TYPE					AUTHORIZED						
BERET	FTA 9MM, N	MODEL 92F		ŀ	YES						
AMMUNIT	ION TYPE				AUTHORIZED						
	HESTER 9M	IM, LUGER			YES						
	UALIFICATION	(LAST DATE)		NOUNDS	FIRED BY DEP	UTY		F HITS			
_			10				U	NKNOWN			
DEPUTY	'S TOXICOLO	GY									
UNDER TI	IE INFLUENCE		TEST FO	R CAUS	E ORDERED		ORDE	RED BY			
N/A			NO				N/	A			
TRAINING	G INFORMATI	ON						-··- <u>-</u>			
LASER V	LLAGE TRAININ		:)		PRACTICAL PO	OLICE CO	JRSE (L	AST DATE)			
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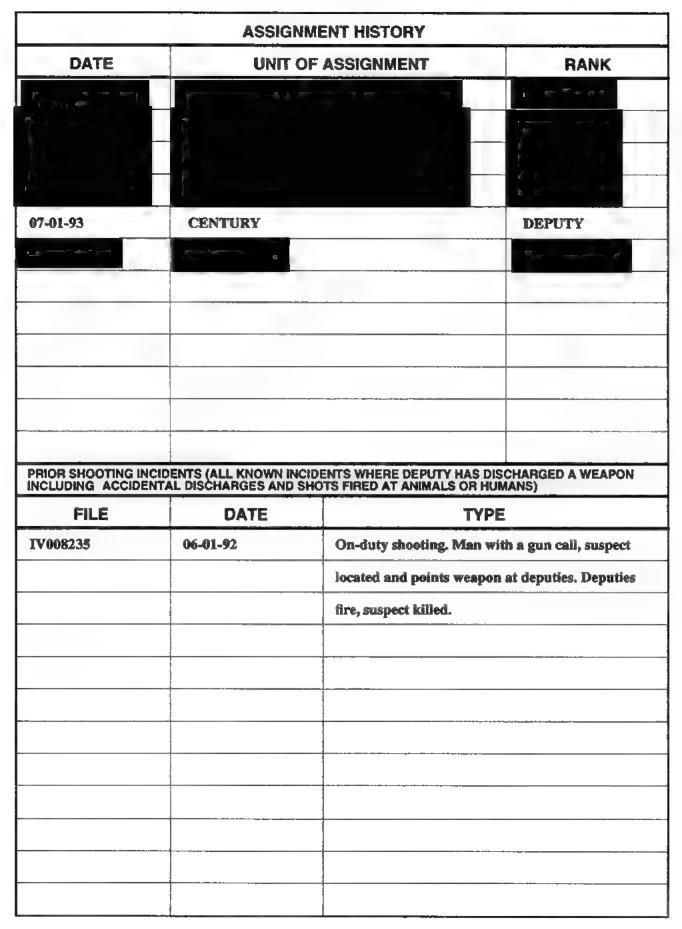
LOS ANG ES COUNTY - SHERIFF'S C 'ARTMENT

SHOOT	rer							_	-		
	EE'S NAME				-		-			_	
MARI	KS, Chris										
RANK		EMPLO	YEE NO.		LINET AND C	MAISIUM / E	DEGION (OF ASSIGNME	TAIT		
Deputy	y							Operation		nΠ	
SEX	RACE		HEIGH	П	WEIGHT	DATE	OF BIRT	Н	AGE	-	
M	White		6'00'	ps	185		- 2-		-	- =	
DUTY ST	TATUS				<u> </u>			HIRE DATE			
On du	ity							06-05-8	7		
UNIFORM	M	RAID JACKET		PLAIN	CLOTHES			VEST			
YES		NO		NO				YES			
NJURED)					DECI	EASED	CORONER'	e cage	NO	
NO						NA		N/A	a umae :	NU.	
	PTION OF INJUR							1412			
WHERE	E? CEN	EQUESTERED (TURY STATION SGT. JOHN M	ON					res (X)	NO	[1
	ON USED										
TYPE		MODEL 92F			AUTHORIZED YES		•				
TINUMMA	TION TYPE			\dashv	AUTHORIZED					<u></u>	
WINC	HESTER 9N	MM, LUGER			YES						
RANGE C	QUALIFICATION	(LAST DATE)	NO. OF PC	DUND!	S FIRED BY DE	PUTY	NO. C	OF HITS			
<u></u>			14				τ	JNKNOWN	Ī		
DEPUT	Y'S TOXICOL	OGY					_				
	THE INFLUENCE		TEST FOR	R CAUS	SE ORDERED		ORDE	ERED BY			
N/A			NO				N	/A			
FRAININ	IG INFORMAT	TON									
		ING (LAST DATE)			PRACTICAL	POLICE CO	DURSE (AST DATE)			
7 4		, , , , , , , , , , , , , , , , , , ,					, 22. 100 to	mar billey			



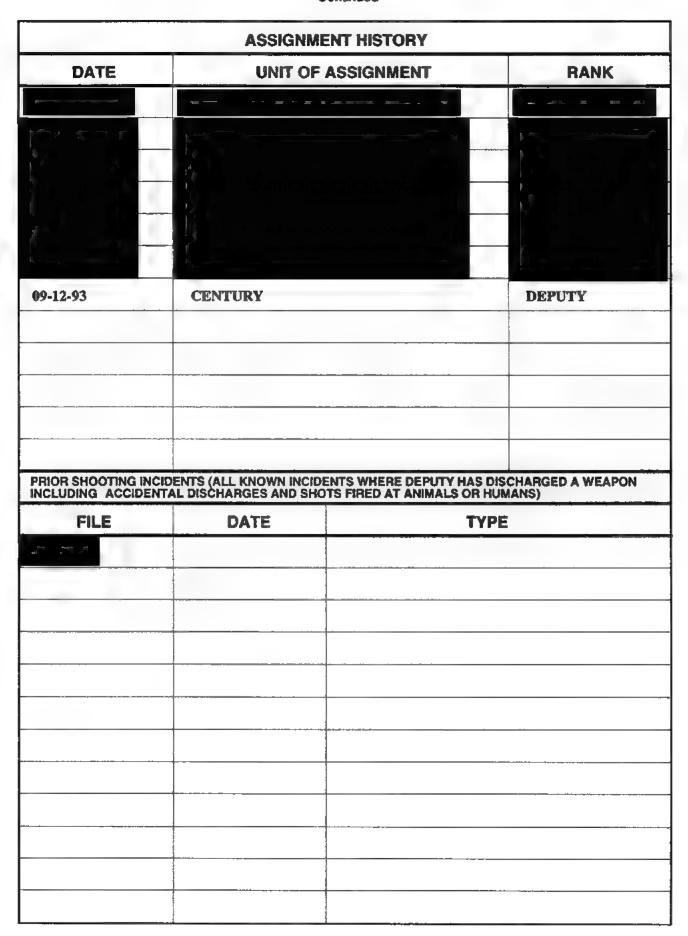
LOS ANGE ES COUNTY - SHERIFF'S DE ARTMENT

MISKEVICS, Joseph RANK Deputy EMPLOYEE NO. Deflit Deputy EMPLOYEE NO. Deputy EMPLOYEE NO. Deflit Deflit Misteria / Field Operations Region II SEX RACE White White HEIGHT HIGHT	SHOOT											
RANK Deputy EMPLOYEE NO. UNIT AND DIVISION / REGION OF ASSIGNMENT Century Station / Field Operations Region II SEX M White 6'01" WEIGHT 195 HREGHT 6'01" WEIGHT 195 HRE DATE 03-23-88 UNIFORM TYES NO NO DECEASED NO DECEASED NO DECEASED NO DECEASED NO DECEASED NO NO DESCRIPTION OF INJURIES NO WAS THE DEPUTY IMMEDIATELY REMOVED FROM THE SCENE? WHERE? CENTURY STATION SUPERVISED BY: SGT. JOHN MCQUAY AND SGT. DAVE FORMANSKI WEAPON USED TYPE BERETTA 9MM, MODEL 92F AUTHORIZED YES AUTHORIZED	EMPLOY	YEE'S NAME										
Deputy Century Station / Field Operations Region II SEX RACE HEIGHT Weight DATE OF BIRTH AGE DUTY STATUS On duty UNIFORM RAID JACKET PLAIN CLOTHES VEST YES NO NO NO PLAIN CLOTHES VEST YES INJURED NO PLAIN CLOTHES VEST YES NO NO NO PLAIN CLOTHES VEST YES NO NO NO PLAIN CLOTHES VEST YES NO NO NO PLAIN CLOTHES VEST YES NO PLAIN CLOTHES VEST YES NO PLAIN CLOTHES VEST YES NO I J WAS THE DEPUTY IMMEDIATELY REMOVED FROM THE SCENE? YES [X] NO [] WAS THE DEPUTY SEQUESTERED PRIOR TO THE INTERVIEW? YES [X] NO [] WAS THE DEPUTY SEQUESTERED PRIOR TO THE INTERVIEW? YES [X] NO [] WHERE? CENTURY STATION SUPERVISED BY: SGT. JOHN MCQUAY AND SGT. DAVE FORMANSKI WEAPON USED TYPE BERETTA 9MM, MODEL 92F AUTHORIZED YES AMMUNITION TYPE WINCHESTER 9MM, LUGER PARAGE QUALIFICATION (LAST DATE) NO OF ROUNDS FIRED BY DEPUTY NO ORDERED BY NO PRACTICAL POLICE COURSE (LAST DATE)	MISK	ŒVICS, Jose	eph									
Deputy Century Station / Field Operations Region II SEX RACE M White 6'01" 195 DITY STATUS On duty UNIFORM RAID JACKET NO	RANK		EMPL(OYEE NO.		UNIT AND DIV	/ISION / R	EGION (OF ASSIGNME	FNT		
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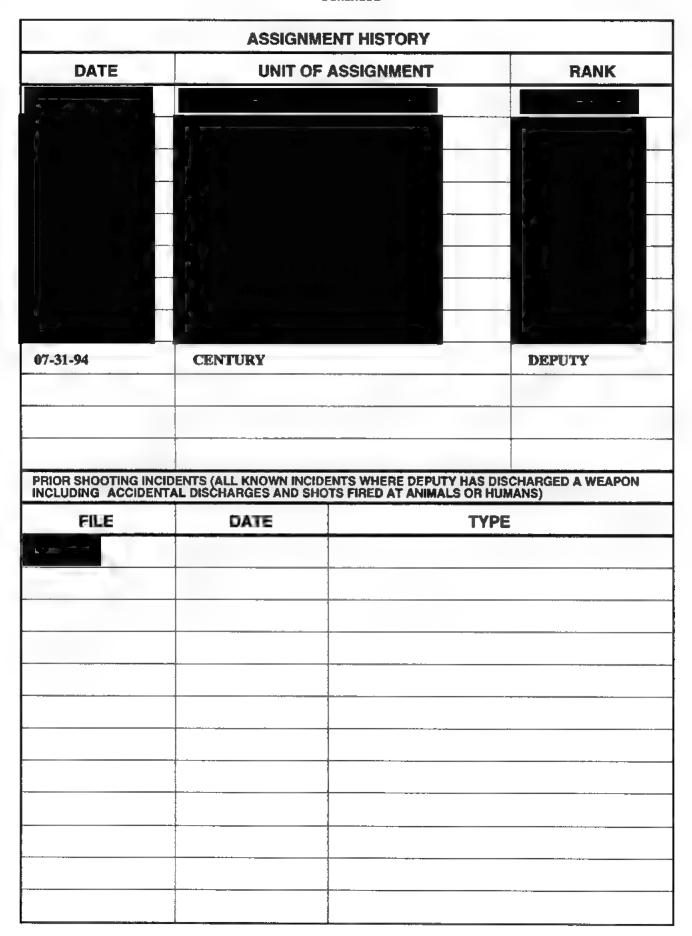
LOS ANGE IS COUNTY - SHERIFF'S DE ARTMENT

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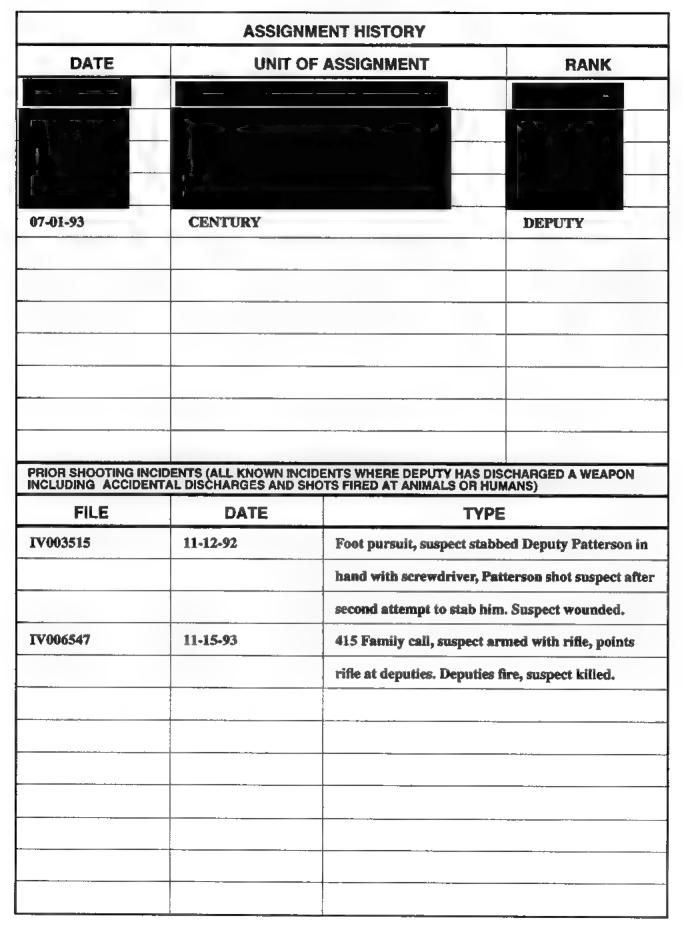
LOS ANGIES COUNTY - SHERIFF'S DEARTMENT

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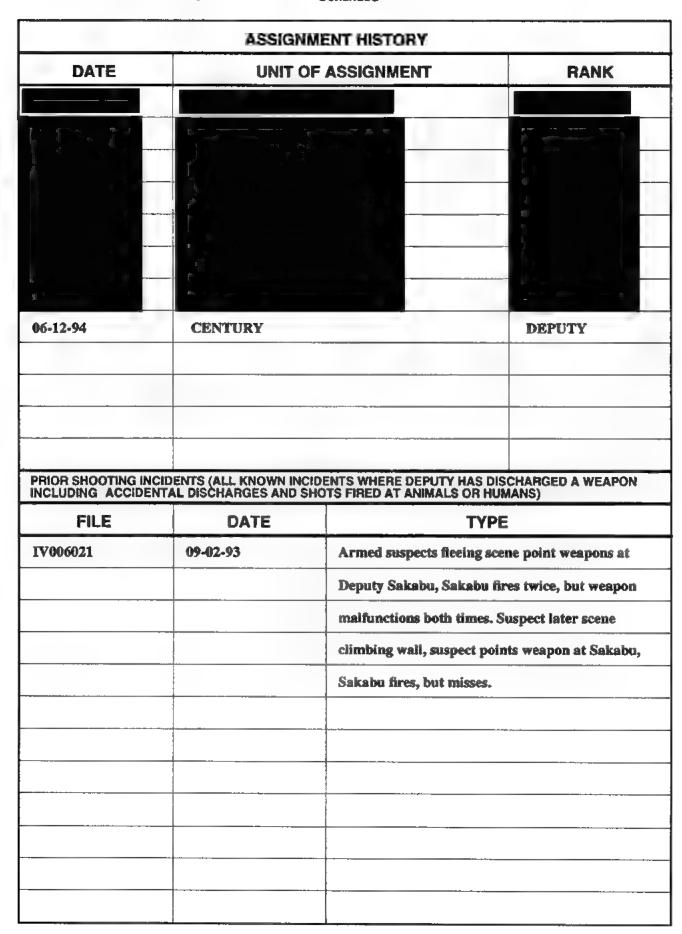
LOS ANGI_ES COUNTY - SHERIFF'S D_ARTMENT

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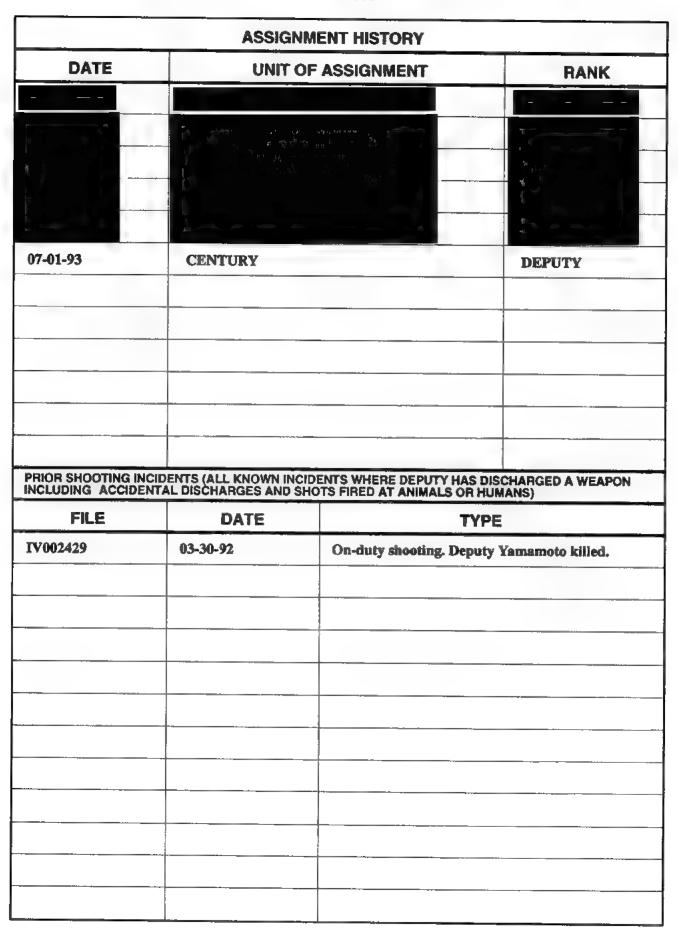
LOS ANGIES COUNTY - SHERIFF'S DEARTMENT

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LOS ANGE IS COUNTY - SHERIFF'S DUARTMENT

SUSPECT/SUBJECT

LAST NAME			-	FIRST NAME			140
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			Jeffrey	M			
ADDRESS			ж				
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TABLE OF CONTENTS

Officer Involved Shooting Evaluation

Incident Data

Shooting Classification

Involved Deputy Information

Suspect Information

Witness List

Case Narrative

Exhibits A through G

Exhibit A - Reports of Incident.

Exhibit B - Diagram and Photographs of Scene #1, "Sassony Plaza" mini-mall.

Exhibit C - Diagram of "Broadway Hair Salon."

Exhibit D - Diagram of Scene #1 with location of vehicles and deputies.

Exhibit E - Diagram and photographs of Scene #2.

Exhibit F - Diagram of Scene #2 with location of vehicles and deputies.

Exhibit G - Autopsy report.

Miscellaneous Memos

LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE BUREAU OF SPECIAL OPERATIONS • SPECIAL INVESTIGATIONS DIVISION

GIL GARCETTI • District Attorney
SANDRA L. BUTTITTA • Chief Deputy District Attorney
R. DAN MURPHY • Assistant District Attorney

ROBERT F. KUHNERT . Director

March 2, 1995

South Gate Police Department 8620 California Avenue South Gate, California 90280

Captain Daniel L. Burt Los Angeles County Sheriff's Department Homicide Bureau 4700 Ramona Boulevard Monterey Park, California 91754-2169

Dear and Captain Burt:

Re: S.I.D. File Number: 100-7880/94-0541 L.A.S.D. File Number: 094-23893-2178-021

The Special Investigations Division of the District Attorney's Office for the County of Los Angeles has concluded its investigation and review of the November 5, 1994 fatal shooting of Jefferey Konrath, age 27, which occurred at East Broadway, Walnut Park. The deputies involved in the shooting were Ernest Chavez, Michael Modica, Timothy Duerr, Chris Marks, Joseph Barbosa, Carlos Parga, Joseph Miskevics, George Sakabu, Howard Fuchs, Daniel White, Bruce Chase, Michael Hannemann, Michael Patterson and South Gate Police Officer

Our office was notified of the shooting at 8:58 p.m. on November 5, 1994. Senior District Attorney Investigator and Deputy District Attorney Randall Baron responded to the scene. They were given a walk-through of the crime scene and a brief summary of the events that led up to the shooting. They interviewed four witnesses at the crime scene, and the undersigned reviewed a 401-page officer involved shooting report prepared by Los Angeles County Sheriff's Department Homicide Bureau Detectives Haynes and Castillo, received on January 24, 1995. We have concluded that the actions taken by the above mentioned deputies on November 5, 1994 were reasonable and did not constitute a violation of criminal law. Therefore, we decline prosecution.

Chief George and Captain Burt March 2, 1995 Page 2

SUMMARY OF THE FACTS

The following summary of the facts is based upon the above mentioned reports and interviews. The reports include non-compelled taped statements, from all of the involved deputies, given to detectives from the Los Angeles County Sheriff's Department-Homicide Bureau on the night or early morning following the shooting.

This shooting involved 14 separate officers from two police agencies. The crime scene began at 7848 Pacific Boulevard (corner of Pacific Boulevard and East Broadway) and ended at East Broadway, Walnut Park. These locations are approximately one and one half blocks from each other. This summary will, therefore, be separated into events which occurred at each location.

7848 Pacific Boulevard

On September 5, 1994 at approximately 7:30 p.m.,
and were working at the "Broadway Hair
Styling" salon when the decedent, Konrath, entered the salon. Konrath produced
what appeared to be a handgun and proceeded to rob the location and rape

The Los Angeles County Sheriff's Department was notified, via a 911 call from that there was an "armed robbery in progress" at the above location. Deputies responded immediately.

While deputies took secure positions around the location, Deputy Sakabu went to the door of the salon. Deputy Sakabu told Investigators Haynes and Castillo that the door to the business was locked. He saw a woman with a frightened look on her face and Konrath with his pants down. He said it was apparent that there was a rape in progress.

Deputy Sakabu ordered Konrath to show his hands. Konrath disappeared behind the counter and reappeared ten seconds later with his left arm around Ms neck, holding what appeared to be a four inch blue steel revolver handgun to head. Ms was partially unclothed with her pants down around her ankles and her shirt and bra pulled up over her breasts.

Due to the number of witnesses and police officers involved, the summary is based upon a review of all statements given to the Sheriff's detectives and District Attorney's investigator. There are no significant differences in any of the statements received as to these events.



Konrath unlocked the door to the salon and left the location with Ms.

Konrath began to drag Ms south towards Broadway. He kept the gun to Ms. head and repeatedly stated "Get back or I'll kill her!" Throughout, deputies continually ordered Konrath to drop the gun and let the hostage go.

Konrath continue to drag Ms. Leave toward a white Ford Mustang that was parked westbound on the north side of Broadway. As he went around the rear of the vehicle, he stopped and bent the rear license plate up so it could not be read. He then opened the driver's door and entered the vehicle, pulling Ms. Leave in on top of him. As Konrath attempted to drive away, numerous shots were fired by ten separate Deputy Sheriffs.

Of the ten deputies who fired, eight (Chavez, Marks, Parga, Chase, White, Modica, Fuchs and Patterson) told the Sheriff's investigators that they were firing at the tires of the vehicle in order to disable it. Each of them stated that they believed Konrath would kill Ms. If he were to get away.

Two deputies (Duerr and Hannemann) told investigators that they fired their weapons at the upper torso of Konrath. Deputy Duerr stated that he had a clear shot at Konrath just before he entered his vehicle. Based upon his observations of Konrath and the threats that were being made, he felt that Konrath was going to kill Ms and any deputies who tried to stop him. Deputy Duerr fired one shot at the upper torso of Konrath, but Konrath entered the vehicle and drove away without any indication he had been shot.

Deputy Hannemann said that he fired his weapon at the upper torso of Konrath just as Konrath was pulling away from the scene in his vehicle. He said he felt that Konrath was going to kill the hostage and other deputies. Since he believed he had a clear shot, he fired three rounds in an attempt to keep Konrath from escaping.

East Broadway

All four tires of the white Ford Mustang were flattened by the deputies' shots. The Mustang moved slowly (10 to 20 mph) eastbound on Broadway. It collided with a chain link fence at East Broadway and came to a stop. Numerous Sheriff's Deputies and one South Gate patrol unit followed the Mustang to this location.

Konrath got out of his vehicle with his left arm around Ms neck. Due to Konrath's position and the poor lighting conditions, a single street light with trees covering the driveway area, the deputies were unable to see if there was still a weapon in his right hand. Deputies were yelling "Drop the girl! Drop the gun!"

Chief and Captain Burt March 2, 1995 Page 4

Konrath waited a few seconds and then began dragging Ms up the driveway toward the residence. Ms. fell to the ground, and Konrath turned and began to run up the driveway. After three or four steps, he turned to look back over his left shoulder. Believing that Konrath was about to shoot at the deputies or Ms. ten deputies (Chase, Hannemann, Marks, Barbosa, Parga, Miskevics, Chavez, Modica, Sakabu and Fuchs) and South Gate Police Officer began firing their weapons at Konrath.

As the shots were being fired Deputy Duerr and Deputy Modica went around the Mustang and pulled Ms. out of the line of fire. Konrath fell to ground, face up with his feet toward the officers. Once on the ground, Konrath continued to move his hands toward his waist area. All of the officers, except for Deputy Modica and Duerr, continued firing until Konrath stopped moving.

Konrath was pronounced dead at the scene. An Autopsy was performed by Los Angeles County Department of Coroner Deputy Medical Examiner Solomon L. Riley, Jr., M.D. Dr. Solomon determined the cause of death to be "Multiple Gunshot Wounds." There were 27 separate gunshot wounds located on the decedent.

<u>WEAPONS</u>

No weapons were recovered from Konrath. A search of his vehicle did reveal the following: One silver plastic revolver replica, with "Pony Boy" written on it, was recovered from the right front floorboard. One black plastic revolver replica was recovered from beneath the driver's seat adjacent to the door. Metal knuckles with a folding single edge blade were recovered from the floorboard between the driver's seat and door.

LEGAL ANALYSIS

The deputies in this instance were justified in firing their weapons at Konrath under the following legal theories: self-defense; defense of others and the right of a police officer to use force in apprehending a fleeing felon.

California law permits the use of deadly force in one's self-defense or in the defense of another if it reasonably appears to the person claiming the right of self-defense or the defense of another that he actually and reasonably believed there was imminent danger of great bodily injury or death. People v. Williams (1977) 75 Cal. App. 3d 731. In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. California Jury Instructions — Criminal (CALIIC) 5.30. 5.32.

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Actual danger is not necessary to justify the use of deadly force. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. The right of self-defense or defense of another is the same whether the danger is real or merely apparent. People v. Toledo (1948) 85 Cal. App. 2d 577.

The Supreme court clarified the standard that must be used in evaluating an officer's conduct in <u>Graham v. Connor</u>, (1989) 490 U.S. 386, 396, 397:

The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with 20/20 vision of hindsight... The calculus of reasonableness must embody the fact that police officers are forced to make split second judgements about the amount of force that is necessary in a particular situation in circumstances that are tense, uncertain, and rapidly evolving.

California law also permits the use of deadly force by police officers when necessary to effect the arrest of a person who has committed a forcible and atrocious felony which threatens death or serious bodily harm. Crimes of violence, such as armed robbery, rape and kidnapping, are considered forcible and atrocious crimes. Kortum v. Alkire (1977) 69 Cal. App. 3d 325; People v. Ceballos (1974) 12 Cal. 3d 470; Tennessee v. Garner (1985) 105 S.Ct. 1694.

CONCLUSION

When Konrath exited Broadway Hair Styling, holding what appeared to be a gun to Ms head he demonstrated an imminent danger to Ms and to the deputies who were in the area. Konrath's intentions became even more clear when he repeatedly told the deputies that he would kill Ms Further, it was reasonable, based upon the armed robbery call, the condition of Ms clothing, and Konrath's actions, for the deputies to believe that Konrath had just committed and was still in the process of committing rape and kidnapping, atrocious crimes. They were therefore justified in firing their weapons, either to stop Konrath himself, or to disable his vehicle.

When Konrath got out of his vehicle at the Broadway location he still presented an immediate threat to the safety of Ms and to the deputies. Konrath's prior actions and the manner in which he was holding Ms would lead a reasonable person to believe Konrath was still armed. Konrath's refusal to submit to authority

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either at the first location or immediately upon exiting his car would indicate to a reasonable person that Konrath was going to try to escape by violent means. Therefore, when Konrath ran and then turned towards the officers, it was reasonable for them to believe he was going to shoot either them or Ms. Based upon that belief it was reasonable to shoot Konrath and to continue firing their weapons until it was clear that he no longer presented an imminent danger.

Accordingly, we conclude that the officer involved shooting by the above mentioned Deputy Sheriffs and South Gate Police Officer was reasonable and justified. This office will take no further action and we consider the matter closed.

Very truly yours,

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By

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Deputy Chase, Serial Number
Deputy Hannemann, Serial Number
Deputy Modica, Serial Number
Deputy White, Serial Number
Deputy Sakabu, Serial Number
Deputy Marks, Serial Number
Deputy Miskevics, Serial Number
Deputy Fuchs, Serial Number
Deputy Parga, Serial Number
Deputy Barbosa, Serial Number
Deputy Patterson, Serial Number
South Gate Police Officer